IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4226 OF 2006

Jayendra Kumar @ Raju Ramdulare Gupta .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.N.K.Sharma for applicant

Mr.Rajesh More, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 6th December 2006.

P.C.

. While in custody the applicant had applied for bail which application was rejected

by the learned Additional Sessions Judge on 25th July 2006.

2. Applicant approached this Court and being disinclined to consider the application, he withdrew it with liberty to renew the same at an appropriate stage.

3. Mr.Sharma submits that after the application in this Court was withdrawn, evidence has been recorded partly. Witness (complainant - P.W.1) has been examined by the prosecution. He was extensively cross examined also. There are material discrepancies, omissions and contradictions. In such circumstances and even further witnesses not supporting the prosecution case, the applicant should be enlarged on bail.

4. In my view, it is best left to the trial court to consider the request of applicant for being enlarged on bail pending trial. Now that

the evidence is partly recorded, applicant can certainly bring to the notice of trial court the changed circumstances. The trial court would definitely take them into account while considering the application made afresh by the applicant herein. All contentions of both sides are expressly kept open with liberty to applicant to file fresh bail application which shall be considered on its own merits and in accordance with law, uninfluenced by the earlier order.

(S.C.Dharmadhikari, J)